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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,440	10/16/2006	Jean-Luc Carrez	MART0930US	5113
24235 7590 09/16/2009 LEVINE & MANDELBAUM 222 Bloomingdale Road Suite 203 WHITE PLAINS, NY 10605				
EXAMINER FLICK, JASON E				
ART UNIT		PAPER NUMBER		
3763				
MAIL DATE		DELIVERY MODE		
09/16/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/598,440

**Applicant(s)**

CARRET ET AL.

**Examiner**

JASON FLICK

**Art Unit**

3763

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 11 August 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Nicholas D Lucchesi/  
Supervisory Patent Examiner, Art Unit 3763

/JASON FLICK/  
Examiner, Art Unit 3763

Continuation of 11, does NOT place the application in condition for allowance because: Examiner has fully considered applicant's arguments, but they are not persuasive. It is the examiner's opinion that given a careful reading, the claims do not distinguish over the prior art of record. The examiner has given the broadest reasonable definition of the claim elements and the cited prior art of Purdy et al. (USPN 5,215,528); Rossi et al. (PGPub 2004/0243060); and Woehr et al. (PGPub 2003/0195471) and applicant's arguments fail to convince of an otherwise meaning. Applicant's representative asserts that neither Purdy, nor Rossi teaches "a blade is at rest and traversed freely by the needle," rather teaches a combination which is not free from friction. Regarding this argument, the examiner respectfully disagrees and asserts that applicant's representative argument relies on limitations which are not in the claim language. Furthermore, given a broad, reasonable interpretation, the phrase "traversed freely" does not mean "free from friction," as implied by applicant's representative. Applicant's representative also asserts Purdy does not meet the claim limitations of claim 4. The examiner respectfully disagrees. Once again, applicant's representative makes arguments which rely on limitations not present within the claim language. The examiner maintains the position, as stated in the previous office action, that Purdy clearly meets the claimed limitations of claim 4. Finally, applicant's representative asserts that the prior art of record does not disclose the limitations of claims 5 and 6. The examiner respectfully disagrees. Applicant's representative makes arguments which rely on limitations not present in the claims, as well as recitation of intended use which does not result in a structural difference between the claimed invention and the prior art. Therefore, the arguments as presented by the applicant's representative have failed to convince the examiner. At present, the prior art of record teaches all elements as claimed and these elements satisfy all structural, functional, operational, and spatial limitations currently in the claims. Therefore, the standing rejections are proper and maintained.